



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2017-0276; FRL-9980-93-Region 5]

Air Plan Approval; Illinois; Permit-by-Rule Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Illinois State Implementation Plan (SIP) to establish a general framework for permits-by-rule (PBR) and specifically provide a PBR for small boilers. In addition, EPA is proposing to approve other state provisions that are affected by the addition of the PBR regulations, as well as minor changes in nomenclature.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2017-0276 at <http://www.regulations.gov>, or via email to damico.genevieve@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

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SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

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I. Background

A. Minor New Source Review

Section 110(a)(2)(C) of the Clean Air Act (CAA) requires that every SIP include a program to regulate the construction and modification of stationary sources to ensure attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). Parts C and D of the CAA (sections 160 through 190)

require the establishment of a New Source Review (NSR) program for sources whose Potential to Emit (PTE) is above certain air pollution thresholds. For such "major sources," Prevention of Significant Deterioration (PSD) provisions will generally apply in areas that have attained the NAAQS, while Nonattainment New Source Review (NNSR) provisions will apply in areas that have not attained the NAAQS.

The permitting program for minor sources is addressed by section 110(a)(2)(C) of the CAA. A minor source is one whose PTE is lower than the major NSR applicability threshold for a particular pollutant. States must develop minor NSR programs to comply with the Federal requirements for state minor NSR programs contained in 40 CFR 51.160 through 51.164. The provisions of a minor NSR program must include legally enforceable procedures that enable the permitting authority to determine whether the construction or modification of a source will result in a violation of applicable portions of the control strategy or interfere with attainment or maintenance of a NAAQS. 40 CFR 51.160(a).

The minor NSR requirements are considerably less prescriptive than those for major sources. EPA has long recognized that such rules are an effective means to ensure that

sources whose emissions are less than the major source thresholds are nonetheless reviewed to ensure protection of the NAAQS. *See, e.g.,* 76 FR 38748, 38752 (July 1, 2011). The Illinois Environmental Protection Agency (IEPA) implements the minor source NSR program under 35 Illinois Administrative Code (IAC) 201. EPA approved Illinois' minor NSR program on December 17, 1992 (57 FR 59928).

B. Title V Operating Permit Program

Title V of the CAA (sections 501 through 507) requires that all major stationary sources have permits that contain all requirements that are applicable under the CAA, as well as adequate monitoring. Title V and its implementing regulations at 40 CFR part 70 provide for the establishment of comprehensive State air quality operating permitting programs consistent with the requirements of title V. The title V operating permit program in Illinois, which EPA fully approved on November 30, 2001, is referred to as the Clean Air Act Permit Program or "CAAPP" (66 FR 62946, December 4, 2001). Pursuant to section 502(a) of the CAA, it is unlawful for any person to, among other things, operate a major source subject to title V except in compliance with a title V permit. All "major sources" of air

pollutants, and certain other sources, must obtain and operate in compliance with a title V operating permit. 40 CFR 70.3.

C. Permits-By-Rule

A PBR is a mechanism for streamlining the issuance of preconstruction permits. PBRs use a regulatory-type structure (i.e., the permit requirements are codified in the IAC) to pre-authorize construction and modification activities carried out in accordance with the codified requirements. PBR programs establish a streamlined process that allows an individual applicant to notify the reviewing authority that it meets the eligibility criteria for the permit and the permit conditions rather than going through a reviewing authority review and approval process. This "notification" process streamlines permitting for eligible sources and makes it easier for the reviewing authority to implement the PBR program compared to traditional site-specific permits. See, e.g., General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Five Source Categories (80 FR 25068, May 1, 2015). A PBR contains qualifying criteria, emission limitations, conditions for operation, requirements for recordkeeping and reporting, and standard permitting conditions

that are similar to those found in individual construction permits for a particular emission source.

On May 2, 2017, IEPA submitted to EPA the following SIP revision requests, which are largely related to a PBR program:

(1) IEPA revision to 35 IAC Part 201 to add a new Subpart M (35 IAC 201.500 through 201.540), which establishes general provisions for a PBR program; (2) IEPA revision to Part 201 to add a new Subpart N to 35 IAC Part 201 (35 IAC 201.600 through 201.635), which establishes PBR requirements for boilers burning certain types of fuel and with heat input capacities of less than or equal to 100 Million British Thermal Units per Hour (MMBtu/hr); (3) IEPA changes to certain abbreviations, definitions, and incorporation by reference (35 IAC 201.103, 35 IAC 201.104, and 35 IAC 211.4720), which are all mostly related to the new PBR rules; and (4) IEPA minor changes in nomenclature at 35 IAC 201.146.

II. Discussion of the State's Submittal

A. Rule revisions that EPA is proposing to approve

35 IAC Part 201, Subpart M: Permit By Rule - General Provisions

Subpart M establishes general provisions for all PBRs. The owner or operator of a source seeking a PBR for an emission unit

covered by an applicable PBR Subpart must comply with all applicable requirements of 35 IAC Part 201, Subpart M, and the applicable PBR Subpart for the type of emission unit for which a construction permit is required. Compliance with the PBR provisions satisfies the requirement to apply for and obtain a construction permit prior to construction or modification of the emission unit. 35 IAC 201.500.

For an owner or operator of a source to be eligible to obtain a PBR for a proposed or modified emission unit: (1) the emission unit must be located at a title V source that has a title V permit; (2) there must be a PBR that has become effective within 35 IAC Part 201 that is applicable to the emission unit; (3) the emission unit, either alone or as part of a larger project, must not be subject to any pre-construction permitting requirements for a major new source or major modification pursuant to 40 CFR 52.21 or section 9.1(c) of the Illinois Environmental Protection Act (Illinois Act), including 35 IAC Part 203 or any other regulations adopted pursuant to section 9.1(c) of the Illinois Act; and (4) the emission unit must not be an element in a larger project that otherwise requires a construction permit pursuant to this Part or the Illinois Act. 35 IAC 201.505(a)(1-4).

Furthermore, the general provisions specify that a PBR does not: (1) exempt any owner or operator from the requirements of the CAA or the Illinois Act, including determining whether construction or modification of an emission unit, by itself or part of a project, constitutes a major modification or major source; (2) exempt any owner or operator from any requirement to notify IEPA or list insignificant activities and emission levels for title V permit purposes; (3) relieve the owner or operator of a source from the requirement of including emissions associated with the emission unit in any preconstruction permitting application for a major new source or major modification pursuant to 40 CFR 52.21 or Section 9(c) of the Illinois Act, including 35 IAC 203 and any other regulations adopted pursuant to Section 9(c) of the Illinois Act; (4) relieve the owner or operator of the emission unit from any applicable requirements of Section 39.5 of the Illinois Act for the emission unit, including any requirement to submit a timely application for a new or modified title V permit that addresses the emission unit; or (5) relieve the owner or operator of the source from compliance with other applicable statutes and regulations of the United States or the State of Illinois, or

with applicable local laws, ordinances, and regulations. 35 IAC 201.505(b).

If the owner or operator seeking to construct or modify an emission unit under Illinois' PBR program meets the applicability criteria under the general provisions and the applicable PBR Subpart, then the owner or operator must submit a complete "Notification," including fees, prior to commencing construction or modification of the emission unit. Section 35 IAC 201.510 provides the information that the owner or operator must submit in the Notification. This includes: (1) general background information about the emission unit; (2) a statement as to whether the unit will be an element in a larger project, and if it is, a statement describing why a construction permit will not be required for any element of that project, and a demonstration that the potential emissions of each regulated NSR pollutant from the project will be less than 80 percent of the relevant "significant emission rates" under 40 CFR 52.21 and 35 IAC Part 203; (3) identification of construction permits and PBRs received in the last two years and a demonstration that the requested PBR should not be aggregated with, and considered an element of, any of these projects that were addressed by the construction projects and PBRs identified; (4) specific

information required by the applicable PBR Subpart Notification requirement; and (5) a statement noting whether the source is major or non-major for emissions of Hazardous Air Pollutants (HAPs), and if the source is non-major, documentation for the determination. IEPA is required to acknowledge receipt of the Notification within 30 days.

The owner or operator may commence construction or modification of the emission unit after submittal of the complete Notification. If the submitted Notification is incomplete, the emission unit is not covered by a PBR and the owner or operator has not met the requirement to apply for and to obtain a construction permit. 35 IAC 201.515. If the owner or operator proposes to modify the emission unit covered by a PBR, the owner or operator must submit a new Notification for a PBR or obtain a construction permit for the modification. If the proposed modification causes the source at which an emission unit covered by a PBR is located to become a major source of HAPs, the owner or operator must submit a new Notification for a PBR for the emission unit. 35 IAC 201.520.

A PBR expires one year from the date of submittal of the complete Notification unless a continuous program of construction on the project has commenced by that time. The

owner or operator of the emission unit must submit an updated Fee Determination prior to commencing operation of the proposed emission unit if there is an increase in allowable emissions over the existing permitted allowable emissions as a result of the construction or modification of the emission unit. 35 IAC 201.525.

IAC Section 201.530 contains the recordkeeping and reporting requirements for the PBR program. This section requires the owner or operator to maintain all records used to demonstrate compliance with the applicable requirements of Subpart M and the applicable PBR Subpart for at least five years. The owner or operator must notify IEPA of the emission's unit's actual start-up date and submit written reports of deviations and any performance tests the owner or operator conducts.

Before the proposed emission unit begins operation, the owner or operator must submit a complete application for a minor modification to the applicable title V permit to address the emission unit for incorporation into the title V permit. 35 IAC 201.535. Illinois' minor modification procedures for title V permits are found in Section 39.5 of the Illinois Act, and parallel the Federal procedures in 40 CFR 70.7(e)(2).

The enforcement authorities for the Illinois PBR program are set forth in 35 IAC 201.540, which specifies that nothing in 35 IAC Subpart M limits IEPA's authority to seek penalties and injunctive relief for any violation of any applicable law or regulation, or the right of the Federal government or any person to directly enforce against owners and operators due to actions or omissions that constitute violations of permits required by the CAA or applicable laws and regulations. Additionally, this section identifies specific violations for which enforcement action may be taken, such as the failure to submit a complete Notification and/or minor modification to the applicable title V permit, and/or comply with the PBR general provisions and/or applicable PBR subpart.

35 IAC Part 201, Subpart N: Permit By Rule - Boilers Less Than or Equal to 100 MMBtu/hr

Under Subpart N, an owner or operator may construct or modify certain types of boilers without obtaining a construction permit if the owner or operator meets and demonstrates compliance with the requirements of both Subparts N and M (PBR General Provisions).

A PBR may be obtained under this subpart for the construction or modification of a boiler if, among other things:

the boiler has a maximum design heat input capacity of less than or equal 50 MMBtu/hr; the boiler has a maximum design heat input capacity greater than 50 MMBtu/hr but less than or equal to 100 MMBtu/hr and is equipped with low-nitrogen oxide (NO_x) burners designed by the manufacturer to meet a NO_x limit of not greater than 0.05 lb/MMBtu; the boiler primarily burns pipeline natural gas, butane, propane, or refinery fuel gas; and the emissions from the boiler are comprised entirely of the products of fuel combustion. 35 IAC 201.600.

In addition to the Notification requirements under Subpart M, owners or operators that plan to construct or modify an eligible boiler must include in the Notification, among other things: (1) identification of the primary fuel that will be burned by the boiler, along with the maximum rated heat input capacity of the boiler (MMBtu/hr); (2) whether the boiler would be a temporary boiler as defined by 40 CFR 60.41c, and 63.7575 or 63.11237, a demonstration that the criteria for a temporary boiler are met and the expected period or periods in which the boiler would be at a location or locations at the source; (3) the potential emissions of individual pollutants from the boiler, including emissions of particulate matter (PM), PM less than or equal to 10 microns in diameter (PM₁₀), PM less than or

equal to 2.5 microns in diameter (PM_{2.5}), NO_x, sulfur dioxide (SO₂), carbon monoxide (CO), and volatile organic material¹ (VOM), based on continuous operation of the boiler at its rated heat input capacity, with supporting documentation and calculations; if the boiler will have the capability to burn diesel fuel, butane, propane, or refinery fuel gas, the potential SO₂ emissions of the boiler from the use of such fuel; and 4) if the boiler or the source at which the boiler would be located does not meet the applicability criteria in 35 IAC 217.150(a)(1)(A) or (a)(1)(B), an identification of the criteria that are not met, with explanation.² 35 IAC 201.605.

Subpart N further requires owners and operators to comply with all applicable regulations for this type and size of boiler, including: New Source Performance Standards (NSPS); National Emission Standards for Hazardous Air Pollutants (NESHAP); and SIP requirements for opacity, CO, and NO_x. The NSPS and NESHAP standards currently applicable to the types of boilers addressed by the PBR are the following: 40 CFR part 60 subpart A, Standards of Performance for New Stationary Sources;

¹ IEPA uses the term volatile organic material interchangeably with volatile organic compounds. See 35 IAC 211.7150 for the definition of "Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)."

² 35 IAC 217.150 include NO_x General Requirements that apply to sources in Illinois located in the geographical locations listed in 35 IAC 217.150(a)(1)(A) and meet the source category and NO_x emissions criteria described in 35 IAC 217.150(a)(1)(B).

40 CFR part 60 subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units; 40 CFR part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories: Subpart A, General Provisions; 40 CFR part 63 subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Source Categories for Major Sources: Industrial, Commercial and Institutional Boilers and Process Heaters; and 40 CFR part 63 subpart JJJJJJ, National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers Area Sources. 35 IAC 201.610.

The opacity and CO SIP requirements currently applicable to the types of boilers addressed by the proposed PBR include: opacity limits and requirements at 35 IAC Part 212, Subpart B, and CO limits and requirements at 35 IAC 216.121.

For NO_x requirements, the owner or operator must comply with: (1) 35 IAC Part 217 Subparts D and E, if applicable; (2) 40 CFR subpart DDDDD, including the combustion tuning work practice requirements of 40 CFR 63.7540(a)(10), if applicable; and (3) for a boiler with a maximum design heat input capacity greater than 50 MMBtu/hr, and that is not subject to either of the above provisions, the owner or operator must conduct annual

combustion tuning consistent with 40 CFR 63.7540(a)(10). 35 IAC 201.615, 201.620, 201.625, and 201.630.

Additional requirements apply to a PBR boiler that burns diesel fuel or refinery fuel gas as a backup fuel. These include, among other things: compliance with all applicable provisions of 35 IAC Part 214, Subparts B or D and 35 IAC 212.206; maintenance of records showing the date, time and duration of any period when diesel fuel was fired in the boiler, the amount of diesel fuel fired, the reason diesel fuel was fired, and the total duration of periodic operational testing or other activity while firing diesel fuel; and the actual SO₂ emissions of the boiler from use of diesel fuel. 35 IAC 201.620.

The owner or operator of each PBR boiler must also maintain records containing the following information, in addition to the records required by Subpart M: (1) the maximum design heat input capacity of the boiler, inspection, maintenance, and repair logs; (2) quantity of each fuel used; (3) hours of operation; and (4) emissions of criteria pollutants (PM, PM₁₀, PM_{2.5}, NO_x, CO, VOM, and SO₂). 35 IAC 201.635.

Changes to other rules

IEPA made changes to other SIP provisions that are affected by the addition of the PBR regulations. These include changes to abbreviations, definitions, and incorporation by reference, as described above, and include amendments to 35 IAC 201.103, 201.104, 211.4720, and 201.146.

IAC Section 201.103, which contains the definitions applicable to Part 201, has been revised to add terms and associated definitions used in the PBR regulations. The amendments include adding definitions and abbreviations (e.g., PBR, CAAPP, NSR, PSD, NSPS). IAC Section 211.4720, which also contains definitions that apply to Part 201, has been revised to add a definition for "pipeline natural gas" that is consistent with the Federal Acid Rain Program under the CAA and is used in the proposed Subpart N PBR regulations.

Additionally, IEPA revised incorporations by reference at 35 IAC 201.104 to reference the Federal NSR program at 40 CFR 52.21 (2015) and certain subparts of the NSPS and NESHAPs for source categories that are included in the PBR regulations.

Finally, IEPA changed the abbreviation of "mmbtu/hr" to "MMBtu/hr" in 35 IAC 201.146.

B. Rule revision for which EPA is taking no action

Illinois' final rule added subsection (mmm) to 35 IAC 201.146, which would exempt sources subject to the Registration of Smaller Sources (ROSS) program from the requirement to obtain construction or operating permits pursuant to 35 IAC 201.142, 201.143, and 201.144. By letter dated May 14, 2018, IEPA withdrew the amendments to 35 IAC 201.146(mmm) for approval as SIP revisions because the ROSS program at 35 IAC 201.175 is not part of the federally-approved SIP. Therefore, EPA is not taking any action with respect to 35 IAC 201.146(mmm).

III. What is EPA's Analysis?

EPA is proposing to approve Illinois' general PBR program contained in Subpart M, the PBR for boilers less than or equal to 100 MMBtu/hr contained in Subpart N, changes to other SIP rules affected by the PBR regulations, and minor changes in nomenclature because they meet all applicable requirements under the CAA.

A. The revisions are consistent with section 110(a)(2)(C) of the CAA and the applicable regulations

According to IEPA, the purpose of the PBR program is to reduce administrative and economic burdens on both the agency and permit holders without sacrificing environmental protection. The PBR program should enable IEPA to address source categories

of low emitting units with similar emission characteristics, so that it does not need to conduct an indepth review to determine the requirements and limits that apply to an individual source that has relatively low emissions. In this way, the PBR program accomplishes similar goals to minor NSR, i.e., authorizing requirements that are less prescriptive than NSR when the permittees are sources with lower emissions. The state's PBR program notification process makes it easier and more efficient for the reviewing authority to implement the PBR program compared to traditional site-specific permits. See, e.g., 80 FR 25068, 25071 (May 1, 2015).

For example, the PBR general provisions require the source to identify all construction permits and PBRs received within the last two years, and to demonstrate why the requested PBR should not be aggregated with and considered an element of these other projects. This approach is consistent with IEPA's federally approved minor NSR program (57 FR 59928, December 17, 1992). In those regulations, the construction of more than one emission unit within a short period of time by the same source will be analyzed cumulatively by IEPA, and must be considered for the applicability of major NSR (which would entail a PSD or NNSR review as appropriate).

Furthermore, Illinois' PBR program should ensure that emissions of any criteria pollutant from a unit covered by a PBR will not exceed the "significance" thresholds for PSD or NNSR. See 40 CFR 52.21(b) (23) (i) and 35 IAC 203.209. As part of the notification required to be submitted by a source seeking to construct or modify an eligible emission unit, the source must demonstrate that the potential emissions of each regulated NSR pollutant from the project will be less than 80 percent of the relevant significant emission rates under Federal and state rules. Additionally, the PBR requires pollution controls for those units with a heat input rating greater than 50 MMBtu/hr but less than or equal to 100 MMBtu/hr. These boilers are required to install low-NO_x burners to ensure that they will not emit NO_x emissions in amounts greater than the level that would trigger a major modification subject to PSD or NNSR.

IEPA conducted an analysis to demonstrate that the construction of any boiler under the PBR for small boilers should not yield emissions of criteria pollutants in amounts that would exceed major source significance thresholds triggering major NSR. For example, the maximum emissions of NO_x from a 100 MMBtu/hr boiler with a low-NO_x burner designed to meet a limit of 0.05 lb/MMBtu operating at 8760 hours per year would

be approximately 21.9 tons per year. This emission rate is approximately half of the significance threshold for triggering major NSR (i.e., 40 tons per year of NO_x). Further discussion concerning potential emissions from PBR boilers may be found in section 4.1 of the May 2016 IEPA Technical Support Document included in Attachment 1 of the state's submittal.

The general PBR provisions also contain specific criteria that limits the type of sources that may use the PBR and allow for permit authority review when the PBR requirements are incorporated into the source's title V permit. Sources that elect to use the PBR are required to apply for a minor modification to the title V permit prior to operation of the PBR unit to ensure that all applicable PBR requirements to the emission unit have been addressed. This ensures that the public understands the requirements to which the source is subject, and that IEPA receives and has the opportunity to review all relevant information regarding a sources' compliance with the PBR. Under Section 39.5(a)(v)(B) of the Illinois Act, IEPA has the option to deny the permit modification application, which provides an additional safeguard to the PBR program should IEPA identify any issues with the source's application.

Additionally, IEPA has limited the type of unit that may be constructed under the PBR. The type of boilers eligible to be constructed/modified under the PBR are common and contain well documented and similar emission characteristics, such as those documented in AP-42: Compilation of Air Pollutant Emission Factors, which provides emission factors for this size and type of boilers based on testing that has been performed over many years. See also, e.g., *Potential to Emit (PTE) Guidance for Specific Source Categories*, from John S. Seitz, Office of Air Quality Planning and Standards, dated April 14, 1998. The PBR provisions thereby ensure that these small boilers are subject to all applicable requirements, such as SIP emission limitations and requirements, and NSPS and NESHAP requirements, that would otherwise be included in individual construction permits for these types of boilers.

For the above reasons, the proposed SIP revisions are consistent with the CAA's minor source permit provisions contained in section 110(a)(2)(C) and EPA's minor NSR regulations at 40 CFR 51.160 through 51.164. The PBR provisions enable the permitting authority to determine whether the construction or modification will result in a violation of applicable portions of the control strategy or interfere with

attainment or maintenance of a NAAQS, as required by 40 CFR 51.160(a). Further, these provisions satisfy the provisions of 40 CFR 51.160(d), which require that approval of any construction or modification must not affect the responsibility of the owner or operator to comply applicable portions of the control strategy.

EPA is also proposing to approve the changes to other rules affected by the PBR regulations, including revisions to definitions and incorporation by reference. The definitions update Illinois' rules to add terms and associated definitions used in the PBR regulations and are consistent with the SIP. EPA is proposing to approve amendments to IEPA's incorporation by reference regulation based on the understanding memorialized in a letter submitted by IEPA dated May 16, 2018. In that letter, IEPA clarified that its sole intention in using incorporations by reference is to reference, and not adopt, the Federal rules that are identified in the PBR rules at 35 IAC Part 201, Subparts M and N, including the Federal PSD regulations. Furthermore, in that letter, IEPA committed to continue implementing the most recent version of the Federal PSD program (40 CFR 52.21) and current EPA guidance consistent with the most recent PSD delegation agreement between EPA and IEPA.

Finally, EPA is proposing to approve the change in nomenclature at 35 IAC 201.146 from "mmbtu/hr" to "MMBtu/hr" because it is consistent with the CAA and SIP, and the use of that term merely reflects the use of that abbreviation in the state's regulations to mean pounds per million British thermal units.

B. The revisions do not interfere with any applicable CAA requirement under section 110(1) of the CAA

Under section 110(1) of the CAA, EPA shall not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and "reasonable further progress" (RFP), or any other applicable requirement of the CAA. Therefore, EPA may approve a SIP revision that removes or modifies control measures in the SIP only after the state has demonstrated that such removal or modification will not interfere ("noninterference") with attainment of the NAAQS, Rate of Progress (ROP), RFP or any other CAA requirement.

IEPA has evaluated the impacts of the proposed revisions, and determined that they do not interfere with attainment of the NAAQS or any other CAA requirement because the use of the PBR provides the same level of, and, in some cases, additional control measures as the control measures that would be included

in an individual construction permit for small boilers. IEPA has demonstrated that the PBR program is essentially a change to the process by which smaller sources with similar emission characteristics obtain authorization to construct.

IEPA notes that the PBR for small boilers includes the requirements that would typically be included in an individual construction permit issued on a case-by-case basis under Illinois' minor NSR rules at 35 IAC 201. This includes requirements such as the Federal emission standards (NSPS and NESHAP) and SIP requirements, including emission limitations, conditions for operation, and standard permitting conditions. Furthermore, IEPA points out that the PBR program does not exempt an emission unit from any air pollution emission limits or control requirements. Therefore, as discussed above, emissions of pollutants from sources complying with the PBR for small boilers should not result in an increase beyond what would result from construction or modification of these types of boilers through an individual minor NSR construction permit.

IEPA has also shown that the PBR for small boilers may require more control measures than an individual construction permit in certain instances. For example, Illinois' minor NSR rules do not require an individual construction permit to

contain boiler tune-up requirements or installation of low-NO_x burners on every small boiler. The PBR for small boilers, however, does include boiler tune-up requirements and the requirement to install low-NO_x burners designed to meet a NO_x emission limit of not greater than 0.05 lb/MMBtu for boilers with a heat input greater than 50 MMBtu/hr. Therefore, in some cases, the PBR may be more protective of air quality than an individual construction permit.

Finally, the PBR provisions do not interfere with any existing environmental state or Federal enforcement authorities. If a PBR unit is found to be in violation of any applicable state or Federal rules, IEPA or EPA may pursue enforcement regardless of whether the source has a construction permit or constructed under the PBR provisions.

Because the PBR rules should achieve equivalent or greater protection of air quality than individual construction permits for small boilers, noninterference has been demonstrated. Therefore, the adoption of the proposed PBR provisions will not interfere with Illinois' existing obligations concerning attainment of the NAAQS, RFP, or any other applicable requirement of the CAA, as required by section 110(1) of the CAA.

IV. What Action is EPA Taking?

EPA is proposing to approve Illinois' PBR program and the PBR for boilers less than or equal to 100 MMBtu/hr by adding 35 IAC Part 201, Subpart M and Subpart N. Specifically, EPA is proposing to approve into the Illinois SIP IAC Sections 201.500, 201.505, 201.510, 201.515, 201.520, 201.525, 201.530, 201.535, 201.540, 201.600, 201.605, 201.610, 201.615, 201.620, 201.625, 201.630, and 201.635.

EPA is also proposing to approve the requested revisions to other rules affected by the addition of the PBR program, including additions and changes to definitions and incorporations by reference. Specifically, EPA is proposing to approve into the Illinois SIP the requested revisions to IAC Sections: 201.103(a) and (b); 201.104 (a), (c), (d), and (e); and 211.4720. EPA is also proposing to approve into the Illinois SIP the requested changes in nomenclature at IAC Section 201.146(c), (d), (h), (i), and (fff).

EPA is not acting on the requested revisions to IAC Section 201.146(mmm), because the revisions exempt sources subject to the ROSS program from state construction and operating permit requirements, and the ROSS program is not part of the federally-approved SIP.

V. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference revisions to Title 35 of Illinois Administrative Code Part 201: Permits and General Provisions, sections 201.103, 201.104 (except for 201.104(b)), 201.146 (except for 201.146(mmm)), 201.500, 201.505, 201.510, 201.515, 201.520, 201.525, 201.530, 201.535, 201.540, 201.600, 201.605, 201.610, 201.615, 201.620, 201.625, 201.630, and 201.635; and Part 211: Definitions and General Provisions, section 211.4720; effective March 24, 2017. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to

approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045

(62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 9, 2018.

Cathy Stepp,
Regional Administrator, Region 5.

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